

REMARKS

The present application has been carefully studied in view of the outstanding Office action dated November 7, 2008, and reconsideration of the rejected claims is respectfully requested in view of the following comments.

It is noted with appreciation that the prior rejection of claim 1 under 35 USC §112, second paragraph, has been withdrawn, and that the prior rejection of claims 1-11 under 35 USC §103(a) has been withdrawn in view of the arguments submitted in support of patentability.

Applicant respectfully submits that the subject matter of claims 1-11 is neither shown nor suggested by the prior art taken alone or in combination. Specifically, claims 1, 3, 5-8 and 11 are not rendered obvious by the combination of Carides et al US 2001/0035645 ("Carides") and Fukumoto US 5,779,482, for the reasons discussed below. Also, claims 2 and 4 are not rendered obvious by the combination of Carides, Fukumoto and Bright US 5,753,350, and claims 9-10 are not rendered obvious by Carides, Fukumoto and Summers US 5,566,823, for the reasons expressed below.

The primary Carides reference simply discloses a very common label assembly that includes multiple plies of flexible material some of which are transparent and some of which contain printed indicia. Presumably the invention resides in water-insoluble features, and as such Carides has nothing to do with the key features of the present invention. Carides is significantly different from the present invention in that it simply comprises a label structure that includes three plies of material, namely a base ply 14, a middle ply 22 and an outside ply 26. These plies are efficiently laminated to one another to form a single assembly 10 which may be attached to a substrate such as a bottle B. The middle ply 22 includes printed material and the base ply 14 is sealed to outer ply 26 with the printed ply therebetween. Nothing more is shown, and clearly there is no disclosure or suggestion of applicant's legible information 5 distinct from the printed information 4 and made up in the form of reliefs 51.

In the outstanding rejection the Examiner relies upon Fukumoto for applicant's claimed legible information in the form of reliefs, but there is no suggestion for adding anything to the outside or elsewhere on the label structure of Carides. Clearly the Examiner's conclusion that it would be obvious

"to provide the Fukumoto information in relief on the Carides second sheet front face, such that it is superimposed on the front face of the first sheet that bears the printed information, in order to enable both healthy persons and the visually handicapped to understand designs formed on the sheet",

is nothing more than speculation and prohibited hindsight application of applicant's own teachings, which is unfair to applicant. As the Examiner is well aware, these are impermissible bases for sustaining a rejection. Without any suggestion for the formulated combination of Carides and Fukumoto, the Examiner is resorting to prohibited hindsight while improperly utilizing the present disclosure as the blue print for such profound and unsupported rearrangements of the prior art.

With respect to the subject matter of claims 2 and 4, applicant is the first to admit that embossing or other ways of deforming a substrate is old in the art, but the deformation recited in claim 2 and the surface modification recited in claims 4 are in the context of both printed information 4 and legible information 5 in the form of reliefs which cooperate with one another so that the reliefs appear to be superimposed on the printed information. Figure 4 of Bright is significant in that it shows a label 60 including printed information as well as ridges 70, but the printed information and ridges are distinct and separate from one another. They do not cooperate with one another and the ridges do not appear to be superimposed on the printed material. Moreover, Carides and Fukumoto are deficient for the reasons expressed above, and Bright does not address those deficiencies.

The packaging and receptacle inner liner of claims 9 and 10 both include the material of claim 8. Summer simply discloses a toothbrush holder having Braille

markings on a tray 16 found within the interior of the holder. Clearly there is no teaching or suggestion of applicant's printed information and further information in the form of reliefs both of which cooperate with one another so that the reliefs appear to be superimposed on the printed information without changing the printed information. The combination of Carides and Fukumoto falls short for the reasons discussed above. Equally significant that there is no suggestion or motivation to alter the structure of Summers in the manner recited by the Examiner in the Office Action.

Accordingly, for the reasons expressed above it is believed that the present application is in condition for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

By Richard M. Beck
Richard M. Beck
Registration No.: 22,580
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

661648